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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/740,641	12/19/2000	Laurent Bensemana	6670/01093US0	4378
7590	10/08/2004		EXAMINER	
DARBY & DARBY P.C. 805 Third Avenue New York, NY 10022-7513			JEANTY, ROMAIN	
			ART UNIT	PAPER NUMBER
			3623	

DATE MAILED: 10/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/740,641	BENSEMANA, LAURENT
	Examiner Romain Jeanty	Art Unit 3623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 19 December 2000.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-25 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date: _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

Detailed Action

1. This Office action is in response to the filing of this application on December 19, 2000.

Claims 1-25 are pending in the application. A rejection for the claims is found below.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 2, 10 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 2 and 10 recite the limitation "the tracked said customer's. It is unclear as to what said tracked said customer's actual behavior applicant is referring. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 101

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claims 18-25 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The claims are directed to an algorithm. A careful review of the specification discloses that the invention is directed to a process based solely on the manipulation of an abstract idea.

The claimed invention devoids any recitation that the claimed invention has a practical application within the technological arts. It is noted that the claims are devoid of any technology (i.e. computer processors, etc.). For a claimed invention to be statutory, the claimed invention must be within the technological arts. Mere idea in the abstract (i.e., abstract idea, law of nature, natural phenomena) that do not apply, involve, use, or advance the technological arts fail to promote the “process of science, for example) and therefore are found to be non-statutory subject matter.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1-10, and 24-25 are rejected under 35 U.S.C. 102(e) as being anticipated by Eldering (U.S. Patent No. 6,298,348).

As to claims 1, 4-8, 12-16, 18, 20-23, and 25, Eldering disclose a consumer profiling system comprising:

initially establishing a consumer's self-perceived consumption behaviour profile; means for monitoring said consumer's behaviour to create an actual behaviour derived consumption profile (col. 7, lines 11-19), means for comparing said consumer's self-perceived consumption behaviour profile with the consumer's actual behaviour derived consumption profile to identify

consistencies and inconsistencies, means for creating a consumer's "true" consumption behaviour profile based on the consumer's self-perceived consumption behaviour profile, the consumer's actual behaviour derived consumption profile (monitoring the consumer's habits and creating an accurate profile of the consumer) (col. 6, lines 37-47).

As per claims 2, and 17, Eldering further discloses wherein said system further comprises means for attributing an appropriate weighting to the consistencies and inconsistencies existing between the said consumer's self-perceived consumption behaviour profile with the tracked said consumer's actual behaviour derived consumption profile (i.e., a weighing factor for weighing particular product purchased at particular time) (col. 10, lines 43-54).

As per claims 3, 19, and 24 Eldering further discloses wherein said means for comparing said initial consumer profile with the tracked behaviour of said consumer further includes means for logging consistencies and inconsistencies of the tracked behaviour of said consumer in a reaction log (storing the consumer's data) (col. 9, lines 29-35).

As per claim 9, Eldering further discloses wherein said means for establishing an initial consumer's self-perceived consumption profile includes a questionnaire to be answered by said consumer (col. 9, lines 51-60).

As per claim 10, Eldering further disclose wherein said means for tracking said consumer's actual consumption pattern behaviour include means for tracking inquiries and purchases (col. 6, lines 33-44).

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Eldering (U.S. Patent No. 6,684,192) in view of Honarvar (U.S. Patent No. 6,430,542).

As per claim 11, Eldering discloses all of the limitations above except a means for tracking simulations. Honarvar in the same field of endeavor, discloses the concept of tracking simulation (col. 20, lines 45-52). It would have been obvious to a person of ordinary skill in the art to modify the disclosures of Eldering to include the tracking simulations of Honarvar with the motivation to allow for detailed customer-level analysis.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

a. Brown (U.S. Patent No. 6,611,842) discloses a method for classifying individual personal preferences for products purchased by the individual.

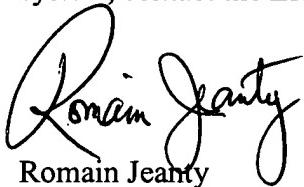
b. Tuzhilin (U.S. Patent No. 6,236,978) discloses a method for generating user profile where the profile includes the user factual information.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Romain Jeanty whose telephone number is (703) 308-9585. The examiner can normally be reached on Mon-Thurs 7:30 am - 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq R Hafiz can be reached on (703) 305-9643. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Romain Jeanty

Primary Examiner

Art Unit 3623

September 30, 2004